

EXHIBIT D

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-99000-smb

4 - - - - - x

5 In the Matter of:

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7 ADMINISTRATIVE CASE RE: 08-01789 (SECURITIES INVEST-
8 ADVERSARY PROCEEDING) ,

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10 Debtor.

11 - - - - - x

12

13 Adv. Case No. 10-04995-smb

14 - - - - - x

15 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.
16 MADOFF INVESTMENT SECURITIES LLC,

17 Plaintiff,

18 v.

19 TRUST u/art FOURTH o/w/o ISRAEL WILENITZ,
20 Defendants.

21 - - - - - x

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1 Adv. Case No. 10-05184-smb

2 - - - - - x

3 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

4 MADOFF INVESTMENT SECURITIES LLC,

5 Plaintiff,

6 v.

7 LAURA ANN SMITH REVOCABLE LIVING TRUST et al,

8 Defendants.

9 - - - - - x

10

11 Adv. Case No. 10-04352-smb

12 - - - - - x

13 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

14 MADOFF INVESTMENT SECURITIES LLC,

15 Plaintiff,

16 v.

17 RAR ENTREPRENEURIAL FUND. LTD. et al.,

18 Defendants.

19 - - - - - x

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U.S. Bankruptcy Court

One Bowling Green

New York, NY 10004

May 17, 2016

10:51 AM

B E F O R E :

HON STUART M. BERNSTEIN

U.S. BANKRUPTCY JUDGE

Hearing re: 10-04995-smb, 10-05184-smb, 10-04352-smb The
Trustee's Request For Leave To File A Motion For a
Protective Order in Wilentiz.

Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

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24 BY: HELEN DAVIS CHAITMAN, ESQ.

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1 THE COURT: And, again, this comes back to my
2 understanding of the records. If you have tables of content
3 or indices...

4 MR. JACOBS: I do.

5 THE COURT: I don't want to see them now.

6 MR. JACOBS: Okay.

7 THE COURT: If you have those things and somebody
8 can look at them and see the subject matter of what they
9 want to look at, figure out what to look at, fine.

10 MR. JACOBS: There is a subfolder in Data Room 1
11 that is called DTC that has all of those records.

12 MS. CHAITMAN: I'm not asking for -- I have the
13 DTC records.

14 THE COURT: She wants other non-DTC records.

15 MR. JACOBS: To the extent we have them in
16 addition to publicly available information that we obtain,
17 it's all in the data room clearly labeled.

18 THE COURT: You'll have to show me when the time
19 comes. 17 -- these are the number of employees that work
20 for each unit.

21 MR. JACOBS: Yes, Your Honor. And as I had
22 mentioned before, we provided a specific chart that contains
23 this exact information, even though I believe we're not
24 obligated to because it had already been made available in
25 the data room and could've been found with the click of a

1 shows up in Wilenitz's account statement, you can make the
2 argument that he actually owned that stock. But you can do
3 that (indiscernible) and the information has been made
4 available to you.

5 And the sense I'm getting -- and I understand that
6 it's a lot of work -- is you want the Trustee to do this for
7 you, but you're going to have to do this yourself if this
8 stuff is available.

9 MS. CHAITMAN: You know, Judge, with 4 million
10 pages of documents, the least the Trustee could do is
11 specify the specific Bates Numbers. Because I don't want to
12 be in a position where we go to trial... I mean, for all I
13 know, the data room is updated constantly and new documents
14 are added. How am I going to prove at trial that certain
15 documents were not made available to me? I mean, it's
16 impossible. Why can't the Trustee be bound to tell me these
17 are the documents responsive to this request?

18 THE COURT: But that doesn't solve your problem...

19 Well, if the Trustee has additional documents, he's got to

20 supplement the disclosure or the production, which he does

21 by adding them to the data room, and maybe you have a

22 continuing duty to check the data room.

23 But part of the problem is you've thrown such a
24 broad net over what you're looking for, instead of the
25 specific documents relevant -- that I think seem to be